

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1, 21, 73, 74 and 101 of the	)	WT Docket
No. 03-66		
Commission's Rules to Facilitate the Provision of)		RM-10586
Fixed and Mobile Broadband Access, Educational	)	
and Other Advanced Services in the 2150-2162	)	
and 2500-2690 MHz Bands	)	
	)	
Part 1 of the Commission's Rules - Further	)	WT Docket No.
03-67		
Competitive Bidding Procedures	)	
	)	
Amendment of Parts 21 and 74 to Enable	)	MM Docket No.
07-217		
Multipoint Distribution Service and the	)	
Instructional Television Fixed Service	)	
Amendment of Parts 21 and 74 to Engage in Fixed)		
Two-Way Transmissions	)	
	)	
Amendment of Parts 21 and 74	)	WT Docket No.
02-68		
of the Commission's Rules With Regard to	)	RM-9718
Licensing in the Multipoint	)	
Distribution Service and in the	)	
Instructional Television Fixed Service for the	)	
Gulf of Mexico	)	

REPLY COMMENTS OF EDUCATION SERVICE CENTER REGION 10

Education Service Center Region 10 (" Region 10" ),  
through undersigned counsel, submits these reply  
comments to the Notice of Proposed Rulemaking and  
Memorandum Opinion and Order in this matter above-  
captioned, FCC 03-56, released April 2, 2003  
(" Notice" ).

I. THE COALITION'S BAND SEGMENTING PLAN IS SUPPORTED  
BY THE MAJORITY OF COMMENTERS

Region 10 has indicated its support for the Coalition's band segmentation

plan as the lesser most of unenviable options facing incumbent ITFS licensees seeking to retain their current levels of ITFS (high-power) service. Of the approximately 52 timely comments filed, about 28 support the Coalition's band segmentation plan or its concept of high and low power spectrum bands in one fashion or another. Of the 28 are numerous ITFS licensee joint commenters providing overwhelming support for the preservation of high-power ITFS service.

II. " MAROONED" AND " UNMAROONED" GRANDFATHERED, REGISTERED RECEIVE SITES SHOULD BE PROTECTED, TAKING INTO ACCOUNT THEIR REGISTERED ANTENNA HEIGHTS ABOVE 30 FEET

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Implicit in the Coalition's proposal is effective receive site protection for high-powered operations, including grandfathered registered receive sites. In Region 10's case and the case of other ITFS licensees who have grandfathered, registered receive sites, the Coalition's proposal for mid-band licensees accommodates protecting these sites without loss of service or inefficiencies in the continued use of such spectrum by incumbent licensees. Accordingly, the Commission should clearly indicate that grandfathered,

registered receive sites be protected and that such protection specifically take into account the site's antenna height (above 30 feet).

Such is not unreasonable, particularly in light of the need for more facilities-specific consideration under other aspects of the proposed regulations, such as where mature systems are operating. See, e.g., Comments of W.A.T.C.H. TV. See Also, e.g., Comments of School Board of Miami-Dade County, Florida and School Board of Broward County.

### III. TRANSITION COSTS SHOULD BE BORNE SOLELY BY THE PROPONENT

Region 10 reiterates its comment that the first proponent should bear transition costs, including conversion to digital. Region 10 supports the notion that third party proponent beneficiaries of the first proponent's band clearing reimburse the first proponent, pro rata, for its costs to relocate the incumbent. See, e.g., Comments of PCIA.

### IV. UNDERLAY OPERATIONS SHOULD NOT BE IMPLEMENTED AT THIS TIME

In its comments, Region 10 suggested that unlicensed underlay use of the spectrum should not be on a primary basis. In reviewing the comments, Region 10

agrees that no underlay operations should be permitted at this time owing to the “temperature floor” issue and the attendant insufficiency of potential interference detection equipment. This position is urged by commenters irrespective of whether they support site-based or Geographic Service Area (GSA) based licensing. See, e.g., Comments of: Bell South (Bellsouth Corporation and Bellsouth Wireless Cable, Inc.); CTIA (Cellular Telecommunications & Internet Association); Ericsson Inc.; Hardin and Associates, Inc.; IMWED (The ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance, Inc.); Lucent Technologies; Motorola, Inc.; Rural Commenters (Consolidated Telcom, Polar Communications Mutual Aid Corporation, Santel Communications Cooperative); Stanford University and Northeastern University; TIA (Telecommunications Industry Association); and WCA, NIA and CTN (Wireless Communications Association International, Inc., National ITFS Association, Catholic Television Network).

V. ITFS ELIGIBILITY REQUIREMENTS SHOULD REMAIN UNCHANGED AT THIS TIME

In its comments, Region 10 asserted that it did not object to extending eligibility requirements to MDS eligibles in the context of a combined ITFS/MDS auction of Low and High band spectrum. Comments of Region 10 at 13. Region 10 does not support the relaxation of ITFS eligibility requirements per se and, in light of

the comments filed, is persuaded that ITFS eligibility requirements remain unchanged irrespective of what band restructuring plan or transition mechanism the Commission may ultimately adopt. Without the reserve of spectrum for the educational community that only ITFS affords, educational institutions will likely disappear as providers of instructional and general educational programming and of future education-specific applications yet to be developed or discovered. See e.g., Comments of: School Board of Miami-Dade County, Florida; School Board of Broward County; The Catholic Television Network (CTN) and the National ITFS Association (NIA); Illinois Institute of Technology (IIT); ITFS Parties; South Carolina Educational Television Network; Education Community; and IMWED.

## VI. CONCLUSION

The Commission should make every effort to preserve high power ITFS service. The Commission should adopt the Coalition's band segmenting proposal along with the safeguards and suggestions made in Region 10's comments and as made and as reconsidered in these reply comments.

Respectfully submitted,

EDUCATION SERVICE CENTER  
REGION 10

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